IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14094 of 2004

Between:

C. Leelavathi, W/o. C. Jayaram Subba Reddy,
R/o. Nandimandalam Village, Pendlimarry Mandal,
Cuddapah District.

..... PETITIONER

AND

1 The Regional Joint Commissioneer, Multi Zone - II, Endowments Departments, Tirupathi, Chittoor District.
2 The Deputy Commissioner, Endowments Departments, Kurnool, Kurnool District.
3 The Assistant Commissioner, Endowments Department, Cuddpah Post, Cuddapah District.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings in Rc.No. A1/2451/2004 dated 23-07-2004 issued by the 3rd respondent as arbitrary, illegal, without jurisdiction, against to the settled Judicial Process and contrary to the procedure contemplated under the provisions of the Andhra Pradesh and Hindu Religious Institutions and Endowments Ac, 1987 (Act No. 30 of 1987) apart from violative of the fundamental rights guaranteed to the petitioner under Article 14 of the constitution of India and consequently set aside the same.

Counsel for the Petitioner: MR.V.R.REDDY KOVVURI

Counsel for the Respondents : GP FOR ENDOWMENTS

The Court made the following :

THE HONOURABLE MS.JUSTICE G.ROHINI

WRIT PETITION NO.14094 OF 2004

ORDER:

The petitioner was appointed as single trustee to Sri Kondagagamma, Sri Veswanathaswamy Parvatavardani and Sri Chennakesava Swamy Temples of Nandimandalam village, Pendlimarry Mandal, Kadapa District vide proceedings dated 19.11.2003. The said appointment was for a period of two years from the date of assumption of office. The petitioner states that she assumed office on 29.11.2003 and entitled to continue till 28.11.2005.

While so, vide proceedings dated 26.6.2004 of the third respondent, petitioner was placed under suspension on certain allegations specified thereunder. Under the same proceedings the petitioner was also called upon to submit her explanation within 15 days from the date of receipt of the said memo. The petitioner states that aggrieved by the said order dated 26.7.2004 she preferred a revision before the Regional Joint Commissioner. Admittedly, the said revision petition in R.P.No.8 of 2004 is pending before the Regional Joint Commissioner, Tirupathi, the first respondent herein. It appears that in the meanwhile the petitioner filed W.P.12567 of 2004 alleging that the first respondent failed to pass any orders even on the application for stay filed by him. The said writ petition was disposed of by an order dated 29.7.2004 with a direction to the first respondent to consider the application for stay and to pass appropriate orders in accordance with law within a period of one week.

However, it appears that the Regional Joint Commissioner has not passed any orders, but the appeal itself was directed to be posted for hearing on 28.8.2004. In the meanwhile, the Assistant Commissioner of Endowments of Kadapa, the third respondent herein issued impugned proceedings dated 23.7.2004 stating that though the petitioner received proceedings dated 26.6.2004 on 29.6.2004, where under she was directed to offer her explanation for the charges specified thereunder, she failed to submit any explanation and therefore, it is deemed that she has no explanation to offer for the charges and therefore she is removed from the post of Single Trustee of the temple with immediate effect in exercise of powers under Section 28(1) of The A.P. Charitable and Hindu Religious Institutions & Endowments Act,1987 (for short, 'the Act'). Aggrieved by the said proceedings, this writ petition is filed.

Heard the learned Counsel for the petitioner and the learned Government Pleader for the respondents and perused the material on record.

Learned counsel for the petitioner vehemently contends that the third respondent having passed an order of suspension is not competent to pass an order of removal since Section 28 of The A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987 does not contemplate imposing the penalties of both suspension and removal simultaneously. I do not find any merit in the said contention. A reading of Section 28 of the Act makes it clear that "suspension" provided under the said provision is by way of punishment. In the case on hand the petitioner was initially placed under suspension pending enquiry for the alleged irregularities. Admittedly petitioner failed to submit her explanation for the charges specified thereunder, in spite of the fact that there was no order by any authority staying the enquiry initiated under the proceedings dated 26.6.2004. In the circumstances, it cannot be said that the third respondent is not competent to pass an order of removal. However, taking into consideration the facts and circumstances of the case and since the impugned order of removal was passed without considering the defence of the writ petitioner, I am of the view that it would be appropriate to afford an opportunity to the petitioner to submit her explanation. Accordingly, the impugned order dated 23.7.2004 is set aside and the petitioner is permitted to submit his explanation on or before 17.8.2004. If any such explanation is received from the petitioner, the third respondent is directed to consider the same and pass appropriate orders afresh, in accordance with law.

The writ petition is accordingly disposed of. No costs.

10.8.2004.

Note:

Issue c.c. by tomorrow.

B/o.

mdaa.

Copy to:

1 The Regional Joint Commissioneer, Multi Zone - II, Endowments Departments, Tirupathi, Chittoor District.
2 The Deputy Commissioner, Endowments Departments, Kurnool, Kurnool District.
3 The Assistant Commissioner, Endowments Department, Cuddpah Post, Cuddapah District.

4. Two C.Cs. for G.P.for Endowments, High Court of A.P., High Court buildings, Hyderabad (OUT)

5. Two C.D.Copies.